Supreme Court, U.S.
FILED

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No. 98-

In the

# Supreme Court of the United States

October term, 1998

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ABDUL AZIZ,

*Petitioner,*

v.

ORBITAL SCIENCE CORPORATION

*Respondent.*

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On the petition for a writ of certiorari
to the United States Court of Appeals
for the Fourth Circuit

## PETITION FOR A WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

(1). Whether a district court may deny to issue a transcript of the final order to the plaintiff, required to file an appeal to the Court of Appeals.

(2) Whether an appeals court can rule a case for which "no informal appeal" was formally filed.

(3) Whether an appeals court can force a plaintiff, by use of trick and threat to present partial facts to it before filing "an informal appeal" formally.

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## I. PETITION FOR WRIT OF CERTIORARI

Petitioner, Abdul Aziz, Ph.D., a citizen of the United States of America does, hereby, petition this court to grant a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit, & the District Court of the Eastern District of Virginia.

### 1. OPINIONS BELOW:

No published opinion.

### 2. JURISDICTION:

1. The date of judgment to be reviewed was entered on 1-16-1997 by the district court in a page without an accmpanying memorandum, exh.__1__. The so called judgment of the appeals court which petitioner does no accept as a legitmate judgment order was entered on 11-19-98. exh.__2__.

3. Jurisdiction is conferred upon the Supreme Court by Rule

10. (c) which in part says, "a United States Court of Appeals

has decided an important federal question that has not been, but should be, settled by this court,".

## II. BACKGROUND OF INDISPUTABLE FACTS

**1. The** respondent advertised two positions for Mechanical Engineers The petitioner applied, but he was not hired. He filed a complaint. His allegations were:

(i). He was better qualified than the selectee.
(ii). Since a less qualified person was hired, he was discriminated.
(iii). Since he was discriminated, and since he belongs to the protected group by virtue of his age, race and national origin, he was unlawfully discriminated.

**2. The case was dismissed** by the district court. The petitioner requested the district court for the transcript. But the district court did not furnish the petitioner a transcript.

**3. The petitioner wrote a letter to the appeals court** under the umbrella title of "Informal Brief", exh.__3__ and moved the court for an order to the district court for a transcript.

**4. Then several correspondences took place** between the petitioner and the Court & clerk of the appeals court, for clarification of court orders and clerk's advice. This situation went so bad that the petitioner went to the appeals court at Richmond, VA from Greenbelt, MD to get clarification of the clerk's latest request for some further requirement to fill.

**5. When I went to the appeals court,** the clerk told me to

"file a motion to recall the mandate." "What is the time limit

file the mandate ?" asked I. She answered, "No time limit" I returned home and was about to write the motion to recall the mandate, when I got the appeals court unpublished opinion, exh.__2__.

## III. ARGUMENTS

**1. Paragraph II. 2.** says that "the district court did not furnish the petitioner a transcript. Petitioner tried his best to get the transcript. He communicated my telephone, by mail and by personal visit to the court.

**2. The exhibit __1__ says,** "defendant's motion to dismiss pursuant to Rule 12 (b) (6)." This phrase is not correct at all. There is no record of a 12 (b) (6) motion in file.

**3. The exhibit __1__ also says,** "For the reasons stated from the bench." This statement is as untrue as the quoted statement above. There are no such reasons in the file.

**4. Since the petitioner did not file an appeal,** the appeals court opinion is no longer the issue. Petitioner was deprived of his legal right. And the issue now is that the petitioner be given the transcripts so that he could file an informal brief.

## VI. THE COMPELLING REASONS

The compelling reasons for the supreme court to accept the petitioner's writ of certiorari are as follows:

**1. Every year hundreds of thousands discrimination** complaints are filed with EEOC. When most of them reach the district courts, they are dismissed by the McDonnell

Douglas v. Green three-step method, or by any excuse and rubber stamped by the appeals court. This practice has been working good for the defendants because writ of certiorari is not a matter of right and the Supreme Court cannot hear all the cases for which it receives writs of certiorari. However, this practice is encompassing a large population and it will ultimately be very harmful to the country.

**2. Some courts,** such as the court of Judge Friedman in the district court of Columbia, does not even address the qualifications. It may be seen from the petitioner's writ of certiorari No. 97-1169, page 2a, para 3, line 5 that the district court argues, "Even assuming that the plaintiff has shown that he was qualified for the position he sought, .....". But the court did not go to determine the qualifications of the two engineering candidates. Why ? Because, the court does possess the necessary expertise, For example, the court does not possess expertise to evaluate the spreadsheets of exh.__7 & __8__ in the earlier writ 97-1169.

**3. When the courts cannot do so,** they cannot say, "we are unable to evaluate the qualifications" for fear of losing their jobs. Then they make their decisions without any attention to the qualification which is every plaintiff's first allegation. The way this petitioner has formulated his allegations on page 2, paragraph II. 1., lines (i), (ii), (iii), it is clear that a judge can not settle allegations (ii) and (iii) without first settling (i). But they do.

4. Similarly, by obstructing Justice and committing perjury a court cannot make a right decision. In this case the district court of Alexandria, has obstructed justice by not giving the copy of the transcript. And it committed perjury by saying that the defendant had filed a Rule 12 (b) (6) motion.

**5. Priority: The petitioner would list the priorities of the United States, in the descending order as: National Security, Racial Harmony, Crime and Economy.**

(i) With USSR divided in to many independent states according to their ethnicity, the U.S. is the only superpower in the world. So, our first priority is gone for ever from its place. The next priority, the racial harmony, will soon come to be knows as Minority Harmony, because of tremendous flood of immigrants coming to the United States from all over the world of various races, nationalities and religions. We must be prepared to deal with the new diversity by offering equal opportunity to all irrespective of race, national origin and religion.

**(ii) With first priority** of national security gone, Minority Harmony will be our new First Priority. This priority is one compelling reason for the Supreme Court to accept the petitioner's writ of certiorari for a hearing.

**4, Slavery was the earliest and most severe form of** discrimination. The United States was on the verge of getting divided in to North and South. Lincoln came, emancipated the slaves and stop the country from division. But the conditions of the slaves did improve very little.

**(i) Then came a great man,** Martin Luther King. Jr., who mobilized the racially Negroid population in the United States in to a nonviolent movement following the ideology Mahatma[1] Ghana of India. King was successful to bring Civil Rights Legislation with the help of President Johnson. But there was little progress. Finding so, the Congress enacted the jury trial for Civil Rights Actions in 1991. But still there

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[1] means a great person

was no reasonable progress at all. It is very difficult, if not impossible, to implement and enforce laws by people on the same people. Therefore, in a landmark decision the Supreme Court delivered an opinion, "Equal but separate is not equal" This opinion was forceful with no loophole left.. As a result, it was able to eliminate segregation between the Caucasian and the Negroid Races. We need a similar opinion, now, to eradicate discrimination for ever from the soil of this United States. This is another compelling reason for the Supreme Court to accept the petitioner's writ of certiori for a hearing.

## VII. SOLUTIONS & BENEFITS

**1. In all the employment hiring discrimination** compliants where a court cannot adjudicate the issue of qualifitions as to the better qualified candidate **by a judge trial,** the court must submit the case **for a jury trial.** It will eliminate the need for the courts to have expertise.

Or

**2. In all the employment hiring discrimination** complaints where a court cannot adjudicate the issue of qualificatins as to the better qualified candidate **by a judge trial,** the court may declare those qualifications **as precluded pursuant to Federal Rules of Civil Procedure 56 (c).** One court did so, exh.__4__. The above suggested procedure one or the other will be very cost and time effective, because in such situations, hardly any discovery is needed for adjudicating the issue of qualifications, among the only two issues of Ttile I of Civil Rights Act of 1964 and of ADEA of 1967.

Or

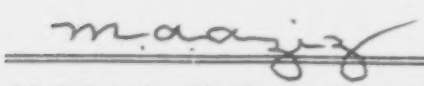
**3. In medical mal practice suits,** a court is not required to evaluate the medical procedure used by a physician. They are evaluated by physicians of county medical board before the complaints of mal practice are brought to the courts. A similar practice may be adopted.

**4. If any one of the above solutions are adopted,**
(i). Number of complaints to EEOC will greatly reduce.
(ii). Number of civil actions to courts, state and federal, will greatly reduce.
(iii). If No. 3 solution above is adopted hardly any case will come to courts because if the Engineering Board finds one candidate better qualified between the plaintiff and the selectee, **a settlement will be reached very quickly and easily.**

## VII. THE PRAYERS

**WHEREFORE,** this humble petitioner prays that the the mighty and honorable Supreme Court accept the writ of certiorari for a hearing filed, on behalf of the millions of applicants who are being denied employments and losing their cases in the courts for the lack of expertise by the courts in evaluating the candidates' engineering qualifications.

Mos respectfully submitted,



**Date prepared: 1-8-1999**

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